

**From:** Steve Linke  
**To:** Microsoft ATR  
**Date:** 11/20/01 12:07pm  
**Subject:** settlement terms will do nothing to stop Microsoft's monopolistic actions

Justice Department:

The agreement is a joke. It does absolutely nothing to punish Microsoft for its past abuses, and it does little or nothing to stop them from using their monopoly position in the operating system market to abuse competitors in emerging markets that rely on the operating systems. The lack of punitive measures provides a tacit invitation to Microsoft to continue their abuses regardless of potential lawsuits. They can make more money from these abuses than it costs them to defend themselves in court, particularly since they are now conditioned that any agreements are going to be watered down and full of loopholes. In addition, the years-long delays while the suits wind their way through the courts assure that any ruling against Microsoft will only affect markets that they have already used their monopoly power to dominate. Below is a timeline that could be repeated ad infinitum if Microsoft is not punished appropriately. Note, in particular, the claim of your department in February of 1995 that the agreement you reached with Microsoft at that time would "end Microsoft's unlawful practices that restrain trade and perpetuate its monopoly power." This is the same claim you are mistakenly making about the current agreement, but you seem hell-bent at repeating this mistake.

February, 1995

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The Justice Department reaches a settlement with Microsoft in a previous case closely related to the current one. The Justice Department promised in this settlement that it would "end Microsoft's unlawful practices that restrain trade and perpetuate its monopoly power."

Judge Stanley Sporkin, now retired, rejects the proposed settlement when he determines the decree was not in the public interest. He complains that, "simply telling a defendant to go forth and sin no more does little or nothing to address the unfair advantage it has already gained."

Spring, 1995

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A U.S. appeals court overturns Sporkin's decision, saying he relied on inappropriate evidence, and removed him from the case.

August, 1995

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Judge Sporkin is replaced by Thomas Penfield Jackson, who approves the settlement.

2000

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Thomas Penfield Jackson recommends splitting up Microsoft into an operating system company and an applications company as a result of the current anti-trust case.

Early, 2001

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The same U.S. appeals court that rejected Judge Sporkin's decision and removed him from the previous case, rejects Judge Jackson decision and removes him from the current case. He is replaced by Judge Colleen Kollar-Kotelly.

November, 2001

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The Bush Justice Department significantly waters down the proposed remedies against Microsoft and assures Judge Kollar-Kotelly that the settlement, if approved by the court, would "eliminate Microsoft's illegal practices, prevent recurrence of the same or similar practices and restore the competitive threat" the company faces from rivals. (Sound familiar?)

Sincerely,  
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